

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
 PUBLIC UTILITIES COMMISSION)
)
 Instituting a Proceeding to)
 Investigate Implementing a)
 Decoupling Mechanism for Hawaiian)
 Electric Company, Inc., Hawaii)
 Electric Light Company, Inc., and)
 Maui Electric Company, Limited.)
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DOCKET NO. 2008-0274

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THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S
RESPONSES TO PUBLIC UTILITY COMMISSION'S INFORMATION REQUESTS

AND

CERTIFICATE OF SERVICE

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**THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S
RESPONSES TO PUBLIC UTILITY COMMISSION'S INFORMATION REQUESTS**

The Department of Business, Economic Development, and Tourism ("Department" or "DBEDT"), by and through its Director ("Director") in his capacity as the Energy Resources Coordinator ("ERC"), through the undersigned Deputy Attorney General, hereby submits to the Hawaii Public Utilities Commission ("Commission" or "PUC"), its responses to the information requests ("IRs") prepared by the Commission's consultant, the National Regulatory Research Institute ("NRRI"), and submitted to the Parties in the above-referenced docket on June 5, 2009.

Enclosed are DBEDT's responses to PUC-IR-48 and PUC-IR-49.

PUC-IR-48

Please respond to HECO's response to PUC-IR-30 where HECO rejected DBEDT's proposal to make the RAM contingent upon compliance with the RPS or other renewable goals. Describe any alternative proposals that would achieve DBEDT's proposed linkage between the RAM and meeting the state's clean energy goals and requirements.

PUC-IR-48-DBEDT-Response:

HECO's response to the PUC-IR-30 maintained that "The imposition of the performance metrics as a condition of initial approval of decoupling, as recommended by DBEDT, Blue Planet, and HREA is unreasonable and unnecessary." In its response, HECO cited the following reasons as the basis for its position: "(1) certain programs and measures are outside the control of the HECO companies; (2) the HECO Companies agreed that the Renewable Portfolio Standard (RPS) is an effective structure to track the Companies' obligation to add renewable energy; (3) there are existing mechanisms in the Energy Agreement which are reinforced in the Joint Proposal on decoupling (HECO/CA Joint Proposal) and the HECO/CA Joint Final SOP to ensure that the RAM will be reviewed so that it is operating in the interest of the ratepayers; and (4) tying performance metrics to the RAM is inconsistent with the purpose of the decoupling provision, as reflected in the Energy Agreement."

DBEDT offers the following response to HECO's opposition to linking its proposed decoupling mechanism to the achievement of commitments under the Energy Agreement:

1. HECO's proposed decoupling mechanism will provide the HECO Companies an automatic annual rate increase (the RAM component) with guaranteed recovery (the RBA component). Such a mechanism insulates the HECO Companies from all market risks such as the effects of the current economic downturn, without providing any consumer benefits.

Commission approval of such a generous mechanism that is not linked to any performance metrics is NOT in the public's best interest.

2. DBEDT believes that any decoupling mechanism adopted by the Commission must be just and reasonable to both the utilities and the consumers. A decoupling mechanism such as proposed by HECO which provides an automatic annual rate increase with guaranteed recovery, and not linked to any performance metrics to be achieved by the utilities that provide consumer benefits, is not just and reasonable for the consumers. Adopting HECO's decoupling proposal not linked to performance metrics begs the question of what is in it for the consumers.

3. HECO's reasons for its assertion that imposing performance metrics as a condition to approving decoupling

as unreasonable and unnecessary are unfounded. HECO controls important elements of the performance measures suggested in DBEDT's Final Statement of Position (FSOP)¹, such as interconnecting net energy metered customers. The HECO Companies have complete control of their power purchases, as well as the PV Host Program it has filed with the Commission. Additionally, simply tracking their obligation to add renewable energy under the RPS mandate is not a substitute for linking decoupling with some performance metrics, nor does it make such a linking unnecessary or unreasonable. Similarly, simply including an "HCEI Status Report" in its rate case filings does not make the imposition of performance metrics as a condition for approving decoupling unreasonable or unnecessary. Moreover, the provision of the Commission review process of the decoupling mechanism to ensure that "it is operating in the interest of the ratepayers" requires some performance metrics to help the Commission determine whether or not the mechanism is achieving its intended purpose.

4. HECO's claim that "tying performance metrics to the RAM is inconsistent with the purpose of the decoupling provision, as reflected in the Energy Agreement", is also

¹ Docket No. 2008-0278, DBEDT's Final Statement of Position, May 11, 2009, page 14.

unfounded. DBEDT is a signatory to the Energy Agreement. As agreed to by the Parties in the Energy Agreement, "The transition to Hawaii's clean energy future can be facilitated by modifying utility ratemaking with a decoupling mechanism that fits the unique characteristics of Hawaii's service territory and cost structure, and removes barriers for the utilities to pursue aggressive demand-response and load management programs, and customer-owned or third-party-owned renewable energy systems, and gives the utilities an opportunity to achieve fair rates of return."² Clearly, the intent of the Energy Agreement in supporting the adoption of a decoupling mechanism is to remove the barriers for the HECO Companies to aggressively pursue and promote customer-sited and third-party owned renewable energy systems and load management programs, to help achieve the HCEI goal of transforming Hawaii to 70% renewable energy-based economy by 2030. HECO's proposal not to link the mechanism to its intended purpose is unreasonable.

DBEDT believes that linking the decoupling mechanism to performance metrics that are based on the achievement of the HECO Companies' commitments in the Energy Agreement is not only reasonable, but necessary to ensure a just and reasonable

² Energy Agreement, October 20, 2008, Page 32.

decoupling mechanism that provides consumer benefits as well as consumer protection.

With regard to other proposals that would complement rather than replace DBEDT's proposed linkage between the RAM and meeting the State's energy goals include the following:

1. Eliminate the efficiency incentive currently built into the ECAC calculation. Embedding a utility incentive in a cost recovery mechanism for fossil fuel-based generation would continue to perpetuate the utility's desire to use fossil-based generation. This utility incentive mechanism is contrary to the state energy goals.
2. Remove the current limits on the net energy metering program relating to maximum limits on the customer-generator sizes and total customer-generator capacities, and replace these limits with the 15% of peak per circuit criteria. Removal of these limits will help the HECO Companies achieve DBEDT's suggested metrics relating to NEM, and will allow the utility to recover a high percentage of the calculated RAM.
3. Adopt feed-in tariffs that will truly help in achieving the state energy goals, with 5MW project size eligibility, and set a target goal of 15% of the system peak for the initial FiTs program.

4. Increase the penalty for non-compliance with the RPS mandate adopted in the Commission's Order Relating to RPS Penalties in Docket No. 2007-0008, to a level that would truly incentivize utility compliance with the RPS statute.

PUC-IR-49:

The current ECAC uses the 2005 energy mix to calculate the ECAC. Does the use of 2005 proportions rather than actual proportions cause the utility to charge more or less than its actual costs when the actual mix is different from the 2005 mix? Does the use of set proportions rather than actual energy mix create a complete pass through? If not, why have you not discussed the proportional allocation as well as the heat rate adjustment? If there have been differences between actual costs experienced and revenues charged to customers because of the use of the 2005 energy mix, please provide the monetary difference for each year from 2004 through 2008.

PUC-IR-49-DBEDT-Response:

The use of set proportions rather than actual energy mix will not result in complete pass through. DBEDT has not discussed this question with the HECO Companies, as DBEDT's impression is that the differences in the HECO Companies' fuel costs and the amount used in the ECAC filings are reconciled on a quarterly basis. If this is not the case, then this issue may be more appropriately addressed in HECO's rate case filings.

DBEDT's position is that the ECAC mechanism be a complete pass through of the utility's fuel costs and savings.

With respect to the differences between the actual fuel costs incurred and the revenues collected from ECAC resulting from the use of fixed 2005 energy mix, DBEDT does not have the data to calculate these differences for each year from 2004 through 2008. DBEDT however, would like to have a copy of this information when submitted by the HECO Companies.

With regard to the heat rate, DBEDT's opening and final Statements of Positions (OSOP and FSOP) proposed removing the built-in incentives through the use of a fixed heat rate in the ECAC calculation. DBEDT's position is based on the following reasons provided in DBEDT's response to HECO-IR-1 filed on April 15, 2009:

1. DBEDT believes that the ECAC mechanism should be a complete pass through of the utility's energy costs and energy savings. If the ratepayers bear 100% of the fossil fuel price risks, they should also reap 100% of the savings from any reduction in the utility's fuel consumption. Conversely, if both the utility and the ratepayers share the risk of the fossil fuel price volatility, then both parties should also share the savings from any efficiencies achieved.

2. HECO maintains that the use of a fixed heat rate is to encourage efficient operation of the units. DBEDT believes that the utility should not be provided extra incentives to

manage its operation efficiently. Managing its operation efficiently will lower its operating costs (not only its fuel costs) and will result in higher net income and will increase its opportunity to earn its allowed rate of return. Furthermore, managing its operation efficiently to lower its operating costs should be viewed by HECO as a fiduciary obligation not only to the shareholders by resulting in increased earnings, but also to the ratepayers by providing reliable service at reasonable costs.

3. The ECAC mechanism provides HECO with a guaranteed automatic fuel cost recovery and should not embed any hidden utility incentives.

4. The proposed decoupling mechanism, if adopted, would provide the HECO Companies automatic annual rate increases with guaranteed recovery. Thus, in addition to bearing all the risks under the ECAC provision, the ratepayers will also bear all the risks under the proposed decoupling mechanism. Shifting all the risks to the ratepayers, while at the same time allowing the utilities to keep the savings from operation efficiency is not in the public's best interest, nor is it just and reasonable.

5. As stated in DBEDT's response to PUC-IR-48 above, embedding a utility incentive in a cost recovery mechanism for fossil-based generation would continue to perpetuate

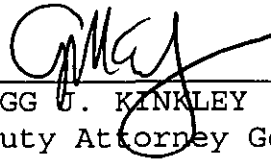
the utility's desire to use fossil fuel-based generation, which is contrary to the state energy goals and to the very basis of the Energy Agreement's support for implementing a decoupling mechanism.

DBEDT would like to also note that in Exhibit D of the HECO/CA Joint Final Statement of Position, these two parties stated that "the fixed heat rate serves as a risk sharing mechanism such that the utilities are at risk of not recovering all of their fuel expenses if they do not properly manage the generating units' operating parameters under their control." First of all, DBEDT does not understand how HECO and the CA define "risk sharing mechanism" in the context of the incentives built into the ECAC calculation. Secondly, the ECAC mechanism provides a full recovery of the utilities' fuel costs, thereby eliminating the utilities' risk of not recovering all of their fuel expenses, and if this is not the case, a full evaluation and examination of the ECAC calculation may be best addressed in the HECO Companies' rate case filings.

DBEDT further notes that in Exhibit D of the HECO/CA Joint Final SOP, HECO and the CA proposed adopting a deadband above and below the fixed heat rates. DBEDT does not believe that this proposal addresses any of DBEDT's bases for recommending

the elimination of this built-in incentive in the ECAC
calculation as discussed.

DATED: Honolulu, Hawaii, June 19, 2009.

A handwritten signature in black ink, appearing to read "G. Kinkley", is written over a horizontal line.

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Certificate of Service

I hereby certify that I have served a copy of the Department of Business, Economic Development, and Tourism's Responses to PUC Information Requests in Docket Number 2008-0274, by electronic transmission on the date of signature to each of the parties listed below.

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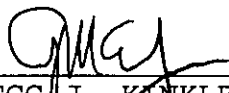
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